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By: **Carroll County Delegation**

Introduced and read first time: February 13, 2004

Assigned to: Health and Government Operations

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A BILL ENTITLED

1 AN ACT concerning

2 **Carroll County - Tobacco Product Sales - Displays**

3 FOR the purpose of prohibiting certain business establishments in Carroll County  
4 from storing or displaying tobacco products in a certain manner; providing for  
5 the application of this Act; providing for the enforcement and penalties of certain  
6 violations; requiring that the Chief Judge of the District Court, in consultation  
7 with Carroll County health officers, adopt certain procedures; providing that the  
8 District Court has exclusive jurisdiction over certain matters; and generally  
9 relating to the sale and display of tobacco products in Carroll County.

10 BY adding to

11 Article 24 - Political Subdivisions - Miscellaneous Provisions  
12 Section 18-101 through 18-104, inclusive, to under the new title "Title  
13 18. Tobacco Product Sales"  
14 Annotated Code of Maryland  
15 (2001 Replacement Volume and 2003 Supplement)

16 BY adding to

17 Article - Courts and Judicial Proceedings  
18 Section 1-605(e)  
19 Annotated Code of Maryland  
20 (2002 Replacement Volume and 2003 Supplement)

21 BY repealing and reenacting, with amendments,

22 Article - Courts and Judicial Proceedings  
23 Section 4-401(10)  
24 Annotated Code of Maryland  
25 (2002 Replacement Volume and 2003 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
27 MARYLAND, That the Laws of Maryland read as follows:

1 **Article 24 - Political Subdivisions - Miscellaneous Provisions**

## 2 TITLE 18. TOBACCO PRODUCT SALES.

3 18-101.

4 IN THIS TITLE, "TOBACCO PRODUCT" MEANS:

- 5 (1) A CIGARETTE;
- 6 (2) A CIGAR;
- 7 (3) SMOKING TOBACCO;
- 8 (4) SNUFF;
- 9 (5) SMOKELESS TOBACCO; OR
- 10 (6) ANY OTHER PRODUCT CONTAINING TOBACCO.

11 18-102.

12 (A) THIS TITLE ONLY APPLIES TO CARROLL COUNTY.

13 (B) THIS TITLE DOES NOT APPLY TO:

14 (1) THE SALE OF A TOBACCO PRODUCT FROM A VENDING MACHINE  
15 THAT COMPLIES WITH STATE LAW; AND16 (2) A TOBACCONIST ESTABLISHMENT THAT PRIMARILY SELLS TOBACCO  
17 PRODUCTS OTHER THAN CIGARETTES AS DEFINED IN § 16-101 OF THE BUSINESS  
18 REGULATION ARTICLE.

19 18-103.

20 (A) A PERSON WHO OWNS OR OPERATES A BUSINESS ESTABLISHMENT THAT  
21 SELLS TOBACCO PRODUCTS AT RETAIL MAY NOT STORE OR DISPLAY A TOBACCO  
22 PRODUCT UNLESS IT:

23 (1) IS OUTSIDE IMMEDIATE ACCESS TO CONSUMERS; AND

24 (2) IS ACCESSIBLE ONLY TO THE OWNER OR OPERATOR OF THE  
25 BUSINESS OR AN AGENT OF THE OWNER OR OPERATOR.26 (B) A PERSON WHO VIOLATES SUBSECTION (A) OF THIS SECTION MAY  
27 RECEIVE A CITATION FOR A CIVIL INFRACTION AND ON CONVICTION IS SUBJECT TO  
28 A CIVIL PENALTY OF:

29 (1) \$100 FOR A FIRST CONVICTION; AND

30 (2) \$300 FOR A SECOND OR SUBSEQUENT CONVICTION.

1 (C) A SECOND CITATION MAY BE ISSUED 30 DAYS AFTER THE DATE OF THE  
2 FIRST CITATION IF THE VIOLATION CONTINUES.

3 (D) A THIRD OR SUBSEQUENT CITATION MAY BE ISSUED EACH DAY AFTER  
4 THE DATE OF THE SECOND CITATION IF THE VIOLATION CONTINUES.

5 18-104.

6 (A) A COUNTY HEALTH OFFICER OR A DESIGNEE OF A COUNTY HEALTH  
7 OFFICER CHARGED WITH ENFORCEMENT OF THIS TITLE MAY ISSUE A CIVIL  
8 CITATION TO A PERSON WHO VIOLATES § 18-103(A) OF THIS TITLE.

9 (B) A CITATION ISSUED UNDER THIS TITLE SHALL INCLUDE:

10 (1) INFORMATION ADVISING THE PERSON RECEIVING THE CITATION ON  
11 HOW LIABILITY MAY BE CONTESTED; AND

12 (2) A WARNING THAT FAILURE TO PAY THE CIVIL PENALTY OR TO  
13 CONTEST LIABILITY IN A TIMELY MANNER IN ACCORDANCE WITH THE CITATION:

14 (I) IS AN ADMISSION OF LIABILITY; AND

15 (II) MAY RESULT IN AN ENTRY OF A DEFAULT JUDGMENT THAT  
16 MAY INCLUDE A CIVIL PENALTY UNDER § 18-103(B) OF THIS SECTION, COURT COSTS,  
17 AND ADMINISTRATIVE EXPENSES.

18 **Article - Courts and Judicial Proceedings**

19 1-605.

20 (E) IN CONSULTATION WITH CARROLL COUNTY HEALTH OFFICERS, THE  
21 CHIEF JUDGE OF THE DISTRICT COURT SHALL ADOPT PROCEDURES FOR THE DESIGN  
22 AND ISSUANCE OF CITATIONS, TRIALS, AND THE COLLECTION OF CIVIL PENALTIES  
23 UNDER ARTICLE 24, §§ 18-103 AND 18-104 OF THE CODE.

24 4-401.

25 Except as provided in § 4-402 of this subtitle, and subject to the venue  
26 provisions of Title 6 of this article, the District Court has exclusive original civil  
27 jurisdiction in:

28 (10) A proceeding for adjudication of:

29 (i) A municipal infraction as defined in Article 23A, § 3(b)(1) of the  
30 Code;

31 (ii) A Commission infraction as defined in Article 28, § 5-113 of the  
32 Code;

33 (iii) A WSSC infraction as defined in Article 29, § 18-104.1 of the  
34 Code, concerning rules and regulations governing publicly owned watershed property;

1 (iv) A WSSC infraction as defined in Article 29, § 18-104.2 of the  
2 Code, concerning WSSC regulations governing:

- 3 1. Erosion and sediment control for utility construction;
- 4 2. Plumbing, gas fitting, and sewer cleaning;
- 5 3. Required permits for utility construction; and
- 6 4. The WSSC Pretreatment Program;

7 (v) A zoning violation for which a civil penalty has been provided  
8 pursuant to Article 66B, § 7.02 or Article 28, § 8-120(c) of the Code;

9 (vi) A violation of an ordinance enacted:

- 10 1. By a charter county for which a civil penalty is provided  
11 under Article 25A, § 5(A) of the Code;
- 12 2. By the Mayor and City Council of Baltimore for which a  
13 civil penalty is provided by ordinance; or
- 14 3. By a code county for which a civil citation is issued under  
15 Article 25B, § 13C-1 of the Code;

16 (vii) A citation for a Code violation issued under § 10-119 of the  
17 Criminal Law Article;

18 (viii) A civil infraction relating to a violation of the campaign finance  
19 laws under § 13-604 of the Election Law Article;

20 (ix) A violation of an ordinance or regulation enacted by a county  
21 without home rule, under authority granted under Article 25 of the Code, or any  
22 provision of the Code of Public Local Laws for that county, for which a civil penalty is  
23 provided;

24 (x) A civil infraction that is authorized by law to be prosecuted by a  
25 sanitary commission;

26 (xi) A subdivision violation for which a civil penalty has been  
27 provided in accordance with Article 66B, § 14.07(f) of the Code; [or]

28 (xii) A violation under Title 10, Subtitle 1, Part III of the Criminal  
29 Law Article; OR

30 (XIII) A CIVIL INFRACTION CONCERNING THE DISPLAY OF TOBACCO  
31 PRODUCTS THAT IS AUTHORIZED BY LAW TO BE PROSECUTED BY A COUNTY HEALTH  
32 OFFICER OR DESIGNEE, INCLUDING CITATIONS ISSUED UNDER ARTICLE 24, §§ 18-103  
33 AND 18-104 OF THE CODE.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
2 effect October 1, 2004.